

PROPOSED ABATEMENT ORDER AND NOTICE OF HEARING

ELLIS EDNA E/GERALD ELLIS EDNA E
1150 DELYNN WAY
SAN JOSE CA 95125

RE: 1150 Delynn Way, San Jose, CA 95125
APN: 439-36-043

AGENDA ITEM:	6g
HEARING DATE	November 14, 2013
HEARING TIME:	6:30 p.m.
HEARING PLACE:	City Hall, Council Chambers 200 E Santa Clara Street San Jose, CA 95113

TO THE PROPERTY OWNER AND ALL OTHER PERSONS HAVING ANY LEGAL INTEREST IN THE ABOVE-DESCRIBED PROPERTY LOCATED IN THE CITY OF SAN JOSE:

Please be advised that after inspections of the above described property by field investigators of the Code Enforcement Division, it has been determined that the property constitutes a Blighted Property as defined by San Jose Municipal Code Section 17.72.040 because of extensive overgrown vegetation in the front, side and rear yards and park strip. The property is hereby declared a public nuisance and must be abated. The property is occupied.

Any person having any record, title or legal interest in the property may appear and protest the Proposed Abatement Order and Notice of Hearing to the Appeals Hearing Board at the time and place specified above. Failure to file a written protest or to appear at such hearing will constitute a failure to exhaust the Administrative Remedies.

Pursuant to San Jose Municipal Code Section 17.02.120, the City Manager may file in the Office of the County Recorder a certificate declaring the property a Blighted Property and a Public Nuisance.

Should you have any questions regarding this matter, please contact Carolyn Slezak, Code Enforcement Inspector, at (408) 535-7890.


Diane Buchanan, Acting Code Enforcement Official
Planning, Building and Code Enforcement

Enclosures

OWNER: Ellis EdnaE/Gerald Ellis Edna E
1150 Delynn Way
San Jose CA 95125

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HEARING PLACE: City Hall,
Council Chambers
200 E Santa Clara St.
San Jose, CA 95113

ADDRESS: 1150 Delynn Way, San Jose CA 95125
APN: 439-36-043

INSPECTION REPORT

Status of Property

The single-family residence located at 1150 Delynn Way, San Jose, CA 95125 ("Subject Property") has extensive overgrown vegetation in the front, side and rear yards and park strip visible from the street. The overgrown vegetation creates harborage for vectors and is a fire hazard. History: This blight case has been open continuously from April 29, 2010 to present. The violations have been overgrown vegetation, lack of landscaping, and accumulation of trash.

The house is occupied. The property has been previously abated for overgrown vegetation under Appeals Hearing Board Resolution numbers 10-33 (6/10/10) and 10-44 (8/12/10).

San Jose Municipal Code Violations

17.72.030 Prohibition of property blight

- A. No person, whether as owner, agent, manager, operator, lessee, tenant, sublessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.
- B. No person, whether as owner, agent, manager, operator, lessee, sublessee, tenant or occupant of a property, shall take any action or allow any action to be taken at that property in violation of any provision of this chapter or any order issued pursuant to the provisions of this chapter.

Overgrown vegetation in the front, side and rear yards and park strip was identified. The overgrown vegetation is an attraction for vectors and a fire hazard. The overgrown vegetation creates blight in the neighborhood. There is a pattern of continuing blight on this property.

17.72.040 General conditions.

The presence of any one or more of the following conditions on property constitutes property blight:

- A. Any condition that is detrimental to the public health, safety or general welfare or that constitutes a public nuisance as defined in California Civil Code Section 3480

- A. Any condition that is detrimental to the public health, safety or general welfare or that constitutes a public nuisance as defined in California Civil Code Section 3480
- B. Any condition of deterioration or disrepair that creates a substantial adverse impact on neighboring properties.

California Civil Code section 3480 provides: A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Overgrown vegetation in the front, side and rear yards and park strip was identified. The overgrown vegetation is an attraction for vectors and a fire hazard. The overgrown vegetation creates blight in the neighborhood. There is a pattern of continuing blight on this property.

17.72.525 Exterior property conditions

The existence of any one or more of the following exterior property conditions constitutes property blight:

- A. The property contains overgrown, diseased, dead or decayed trees, weeds or other vegetation that:
 - 1. Constitutes a fire hazard or other condition that is dangerous to the public health, safety, welfare; or
 - 2. Creates the potential for the harboring of rats, vermin, vector, or other similar nuisances; or
 - 3. Substantially detracts from the aesthetic and property values of neighboring properties; or
 - 4. Is overgrown onto a public right-of-way at least twelve inches; or
 - 5. Is completely dead, over twelve inches in height, and covers more than fifty percent of the front or side yard visible from any street.

Overgrown vegetation in the front, side and rear yards and park strip was identified. The overgrown vegetation is an attraction for vectors and a fire hazard. The overgrown vegetation creates blight in the neighborhood. There is a pattern of continuing blight on this property.

Chronology from March 2012

- 3/2/12 Code Enforcement Inspector William Gerry inspected the property and found it to be in compliance.
- 4/2/12 Inspector Gerry inspected the property and observed the vegetation to be over 12 inches high
- 6/4/12 Inspector Gerry inspected the property and observed overgrown vegetation in the front, side, rear yards and park strip.
- 8/7/12 Inspector Gonzalez inspected the property and observed overgrown weeds.
- 9/5/12 Inspector Gonzalez inspected the property and observed overgrown vegetation
- 09/18/12 Code Enforcement Inspector Carolyn Slezak inspected the property. Inspector Slezak observed overgrown vegetation in the front, side, and rear yard and park strips. Inspector Slezak attempted contact at the subject property with no response at the door. Business cards were left at both properties.
- On or about that same day, Inspector Slezak researched the Santa Clara County Assessors Office records and the Santa Clara County Recorders Office records and confirmed that the Subject Property is owned by Jerry and Elizabeth Ellis and the contact mailing address on record is 1150 Delynn Way in San Jose.
- 10/9/12 Inspector Slezak inspected the property and observed overgrown vegetation
- 11/6/12 Inspector Slezak inspected the property and observed overgrown vegetation
- 12/18/12 Inspector Slezak inspected the property and observed overgrown vegetation
- 2/14/13 Inspector Slezak inspected the property and observed overgrown vegetation
- 3/20/13 Inspector Slezak inspected the property and observed overgrown vegetation
- 5/17/13 Inspector Slezak inspected the property and observed overgrown vegetation
- 6/20/13 Inspector Slezak inspected the property and observed overgrown vegetation
- 7/10/13 Inspector Slezak inspected the property and observed overgrown vegetation
- 8/28/13 Inspector Slezak inspected the property and observed overgrown vegetation. Inspector Slezak knocked at the door of the subject property. There was no answer at the door.
- 9/26/13 Inspector Slezak prepared a Notice of Intent to Abate to the property owner.

9/27/13 Inspector Slezak inspected the property and observed overgrown vegetation. Inspector Slezak knocked at the door of the subject property. There was no answer at the door.

On the same day, Inspector Slezak mailed a Notice of Intent to Abate to the property owner. A true and correct copy of the Notice of Intent to Abate letter is attached hereto and incorporated herein by this reference as **EXHIBIT A**.

10/23/13 Inspector Slezak inspected the property and observed overgrown vegetation in the front, side, rear yard, and park strip. Eight (8) photographs were taken. True and correct copies of the photographs are attached hereto and incorporated herein by this reference as **EXHIBIT B**.

On the same day at 7 pm, Inspector Slezak attempted to contact the owner at his residence of 1150 Delynn Way. The owner did not answer the door.

CODE ENFORCEMENT STAFF RECOMMENDATIONS

Staff recommends that the San Jose Appeals Hearing Board order the Property Owner to take the required corrective actions to remove all overgrown vegetation from the front, side and rear yards and park strip. All trees, hedges, bushes, weeds, grass and all other vegetation must be thinned out and trimmed down. All corrective action must be completed by the end of ten (10) calendar days of the date of service of the Board's resolution in this matter.

If the Property Owner fails to remove the overgrown vegetation from the side and rear yards; and fails to have all trees, hedges, bushes, weeds, grass and all other vegetation thinned out and trimmed down within the required time period, Code Enforcement also recommends a Proposed Abatement Order from the San Jose Appeals Hearing Board to enter the Subject Property to abate the overgrown vegetation in the front, side and rear yards and park strip.

If the above mentioned overgrown vegetation are not removed within ten (10) calendar days of the date of service of the Board's resolution in this matter, the abatement shall be performed by a City approved contractor or service providers and the cost of removal charged to the property owner to be billed following the completion of the work and paid in full within thirty (30) days of the billing date.

ATTESTING STATEMENT OF CODE ENFORCEMENT INSPECTOR

1. I am the Code Enforcement Inspector for the City of San Jose assigned to investigate the potential Municipal Code Violations at 1150 Delynn Way, San Jose, CA 95125, that are the subject of this Inspection Report.
2. I have prepared and reviewed this Inspection Report and can attest to the truth of the matters stated above.



Carolyn Slezak
Code Enforcement Inspector
Badge #88E

Exhibit A



Department of Planning, Building and Code Enforcement
JOSEPH HORWEDDEL, DIRECTOR

September 26, 2013

ELLIS EDNA E/GERALD ELLIS EDNA E
1150 DELYNN WAY
SAN JOSE CA 95125

SUBJECT: 1150 DELYNN WAY
APN 439-36-043
CASE NUMBER: 2010-08251

NOTICE OF INTENT TO ABATE

As authorized by the San Jose Municipal Code Section 17.02.030, an inspection was made of the property identified above. This inspection revealed that the condition of this property is detrimental to the public health, safety and general welfare, creates a public nuisance, and constitutes a blighted property as defined in San Jose Municipal Code Chapter 17.72, due to the following conditions:

- 17.72.020 Public Nuisance**-Any property upon which there exists property blight as set forth in the provisions of this Chapter is hereby declared and determined to be a public nuisance.
- 17.72.030 Prohibition of Property Blight**-No person, whether as owner, agent, manager, operator, lessee, sublessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.
- 17.72.040 General conditions.** The presence of any one or more of the following conditions on property constitutes property blight:
- A. Any condition that is detrimental to the public health, safety or general welfare or that constitutes a public nuisance as defined in California Civil Code Section 3480;
 - B. Any condition of deterioration or disrepair that creates a substantial adverse impact on neighboring properties.
- 17.72.525 Exterior Property Conditions** The existence of any one or more of the following exterior property conditions constitutes property blight:
- A The property contains overgrown, diseased, dead or decayed trees, weeds or other vegetation that:
 - 1. Constitutes a fire hazard or other condition that is dangerous the to public health

- safety, welfare; or
2. Creates the potential for the harboring or rats, vermin, vector, or other similar nuisances; or
 3. Substantially detracts from the aesthetic and property values of neighboring properties; or
 4. Is overgrown onto a public right of way at least twelve (12) inches; or
 5. Is completely dead, over twelve (12) inches in height, and covers more than fifty percent (50% of the front or side yard visible from any street.

It is hereby ordered that the above listed violations be corrected as follows:

- **No later than October 23, 2013**, remove and properly dispose of all overgrown vegetation on the Subject Property.

Failure to fully comply with this notice will result in a Proposed Abatement and Notice of Hearing where the City will perform the abatement with the cost of that abatement charged to you. The Municipal Code allows the City to perform appropriate measures necessary to abate the property. If you have any questions concerning this letter, you may contact me at 408-535-7890 or via email at Carolyn.slezak@sanjoseca.gov.

Sincerely,



Carolyn Slezak
Code Enforcement Inspector Badge #088E

Exhibit B



1150 Delynn Way 10-23-13



1150 Delynn Way 10-23-13



1150 Delynn Way 10-23-13



1150 Delynn Way 10-23-13



1150 Delynn Way 10-23-13



1150 Delynn Way West Side with Overgrown Vegetation visible
in rear yard 10-23-13



1150 Delynn Way from West 10-23-13



1150 Delynn Way Park Strip West of Driveway 10-23-13